

## REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

### Summary of Office Action

In the March 28, 2008 Office Action, the following rejections were set forth:

Claim(s)	Rejection	Art
4	35 U.S.C. §102(b)	U.S. Patent No. 6,410,822 to Mizutani (Mizutani'822)
1-3, 5-15, 17, 18	35 U.S.C. §103(a)	U.S. Patent No. 5,591,150 to Olsen (Olsen'150)
16	35 U.S.C. §103(a)	Olsen'150 in view of U.S. Patent No. 5,397,316 to LaVon (LaVon'316)
19	35 U.S.C. §103(a)	Mizutani'822 in view of U.S. 2002/0156450 to Drevik (the Drevik'450 application).

### Summary of Response to Office Action

By this Amendment, Claims 1, 4, 8, 13 and 18 are amended and new claim 20 is added. The claims currently pending in this application are Claims 1-20. Claims 1, 4 and 8 are the only independent claims.

### The Claims Define Allowable Subject Matter

In the Office Action, beginning at page 3, claim 4 was rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,410,822 to Mizutani (the Mizutani'822 patent). This rejection is respectfully traversed for the following reasons.

In the March 28, 2008 Office Action, the Examiner indicates that "Claim 4 does not require that the resilient body is directly adhered to the absorbent" to support the Examiner's position that the Mizutani'822 reference can be considered to disclose an elastic member fixed to the absorbent, as recited in claim 4. Accordingly, although Applicant does not agree with the reasoning set forth in the rejection, Applicant hereby amends claim 4 to comply with the Examiner's suggestion in order to expedite prosecution.

Thus, in accordance with the suggestion in the March 28, 2008 Office Action, it should be recognized that the above referenced feature of “a resilient body which is fixed and directly adhered at least to the absorbent” as recited in claim 4 is completely absent from Mizutani’822. Therefore, withdrawal of the rejection of claim 4 under 35 U.S.C. §102(b) is respectfully requested.

Claims 1-3, 5-15, 17, and 18 were rejected under 35 U.S.C. 103(a) as allegedly obvious over U.S. Patent No. 5,591,150 to Olsen (Olsen’150). This rejection is respectfully traversed at least for the following reasons.

Independent claims 1 and 8 include the feature of a resilient body which is fixed at least to the absorbent in a center region in a lateral direction of the product and formed in a region only at a single end of the longitudinal direction. This feature is completely absent from the Olsen’150 product, which discloses a sanitary napkin having a body-conforming portion including a back sheet 40, a core 42, a top sheet 38, and a resilient insert 44. As indicated at Column 19 lines 29-31 of Olsen’150, “the completed insert 44 is tightly glued to the underside of...the absorbent core (42).” In the Office Action, the Examiner alleges that the core 42 can be considered to be the “absorbent” as recited in independent claims 1 and 8, and that the resilient insert 44 can be considered to be the “resilient body” recited in independent claims 1 and 8. These structures are fairly uniformly centered in the Olsen’150 product. Neither of these structures can reasonably be considered to be a resilient body which is fixed at least to the absorbent in a center region in a lateral direction of the product and formed in a region only at a single end of the longitudinal direction.

In addition, it appears that the Examiner has misinterpreted the Olsen’150 reference. Specifically, there is no reasonable structure that can be considered “slits” formed in an absorbent, as recited in independent claims 1 and 8. As can be seen in Figs. 4 and 5 of Olsen’150, the core 42 has no heat seams or other “slits” cut therein. The Office Action indicates that slits can be considered to be the “lateral side arcuate portions 52, 54, compression lines 80B, intermediate lines of weakness 130C, and unstiffened regions 86.” However, as noted above, each of these structures is a feature of the resilient insert 44 of Olsen’150, and *not* of the

core 42. Thus, we believe that the Examiner has overlooked this feature, and that at least this feature is also not disclosed or taught by the Olsen'150 reference.

For at least the above reasons, it is respectfully submitted that the Olsen'150 patent cannot obviate Applicant's claims 1 and 8 simply by itself, and that the rejection of claims 1 and 8 under 35 U.S.C. §103 is in error.

Claims 2, 3, 5-7, 15, and 18 are dependent from claim 1 and claims 9-14, and 17 are dependent from claim 8 and therefore include all the features of claims 1 and 8 therein, respectively. Accordingly, it is respectfully submitted that claims 2, 3, 5-7, 9-15, 17, 18 are also allowable over the Olsen'150 patent for at least the same reasons that claims 1 and 8 are allowable, and for the separate features that these claims recite.

Accordingly, for at least the above reasons, withdrawal of the rejection of claims 1-3, 5-15, 17, 18 under 35 U.S.C. §103 is respectfully requested.

Claim 16 was rejected under 35 U.S.C. 103(a) as allegedly obvious over the Mizutani'822 patent in view of U.S. Patent No. 5,397,316 to LaVon (LaVon'316). This rejection is respectfully traversed at least for the following reasons.

Neither Mizutani'822 nor LaVon'316 either alone or in alleged combination provides the missing features as described above with respect to its parent claim - independent claim 4. Namely, Mizutani'822 and LaVon'316 each fail to disclose the feature of "a resilient body which is fixed and directly adhered at least to the absorbent" as recited in claim 4. Thus, even assuming the references could be properly combined, there would be at least one feature completely absent. For at least the above reasons, it is respectfully submitted that the Mizutani'822 patent and/or the LaVon'316 patent, either alone or in alleged combination, cannot obviate Applicant's claim 16, and that the rejection under 35 U.S.C. §103 is in error. Accordingly, withdrawal of the rejection of claim 16 under 35 U.S.C. §103 is respectfully requested.

Claim 19 was rejected under 35 U.S.C. 103(a) as allegedly obvious over the Mizutani'822 patent in view of U.S. Patent Application No. 2002/0156450 to Drevik (the

Drevik'450 application). This rejection is respectfully traversed at least for the following reasons.

Neither Mizutani'822 nor the Drevik'450 application either alone or in alleged combination provides the missing features as described above with respect to independent claim 4. Namely, Mizutani'822 and the Drevik'450 application each fail to disclose the feature of "a resilient body which is fixed and directly adhered at least to the absorbent" as recited in parent claim 4 from which claim 19 depends. Thus, even in alleged combination, the Mizutani'822 and the Drevik'450 application fail to disclose and/or teach the above feature of claim 4. For at least the above reasons, it is respectfully submitted that the Mizutani'822 patent and/or the Drevik'450 application, either alone or in alleged combination, cannot obviate Applicant's claim 19, and that the rejection under 35 U.S.C. §103 is in error. Accordingly, withdrawal of the rejection of claim 19 under 35 U.S.C. §103 is respectfully requested.

Claim 20 is added to provide an alternate scope of protection for the invention.

## **Conclusion**

Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of this patent application is therefore respectfully solicited.

If the Patent Examiner believes that a further telephone conference with the undersigned would expedite passage of this patent application to issue, she is invited to call on the number below.


## **Constructive Petition**

- [X] **Except** for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including filing fees, fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, and any required extension of time fees, or credit any overpayment to Applicant's representative's Deposit Account cited in the application transmittal originally filed with this application. This paragraph is intended to be a

**CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in  
accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

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